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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,794	02/28/2002	Jason W. Osborn	4423 CIP	2007

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EXAMINER

PIHULIC, DANIEL T

ART UNIT	PAPER NUMBER
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3662

DATE MAILED: 05/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/085,794

Applicant(s)

OSBORN ET AL.

Examiner

Daniel Pihulic

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7, 9 and 11-17 is/are rejected.
- 7) ☒ Claim(s) 4-6, 8 and 10 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

1. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

2. The disclosure is objected to because of the following informalities: the status of the application cited in line 3 should be updated. Appropriate correction is required.

3. Claim 6 is objected to because of the following informalities:
in line 3, the term "orthogonal" would appear to be more appropriate than "octagonal".
Appropriate correction is required.

4. Claims 13-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites the limitation "the method" in line 1. There is insufficient antecedent basis for this limitation in the claim. Applicant probably intended this method claim to depend from method claim 12 and not apparatus claim 8.

Claim 14 recites the limitation "the method" in line 1. There is insufficient antecedent basis for this limitation in the claim. Applicant probably intended this method claim to depend from method claim 12 and not apparatus claim 8.

Claim 15 recites the limitation "the method" in line 1. There is insufficient antecedent basis for this limitation in the claim. Applicant probably intended this method claim to depend from method claim 12 and not apparatus claim 8.

Claim 16 recites the limitation "the method" in line 1. There is insufficient antecedent basis for this limitation in the claim. Applicant probably intended this method claim to depend from method claim 12 and not apparatus claim 8.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 2, 7, 9, 11, 12, 14, 16 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Stahl (US6188313). The Stahl reference discloses the utilization of a honeycomb (openwork) structure (see FIGs. 5b & 5a and column 3, lines 37-52) between an outer layer and inner layer in an oval shaped flextensional transducer as recited in the aforementioned claims.

7. Claims 1-3, 7, 9, 11, 12, 14, 16 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Stahl (US5706254) . The Stahl reference discloses the utilization of a honeycomb (openwork) structure (see FIG. 12 and column 9, lines 1-10) between an outer layer and inner layer in an oval shaped flextensional transducer as recited in the aforementioned claims.

8. Claims 1-3, 7, 9, 11, 12, 14, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Stahl (W09532601) . The Stahl reference discloses the utilization of a honeycomb (openwork) structure (see FIG. 12 and page 15, lines 15-25) between an outer layer and inner layer in an oval shaped flextensional transducer as recited in the aforementioned claims.

9. Claims 4-6, 8 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Pihulic whose telephone number is 703-306-

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4168. The examiner can normally be reached on Monday through Thursday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza, can be reached on 703-306-4171.


The fax phone numbers for the organization where this application or proceeding is assigned are:

703-872-9306 for official responses, and

703-746-3847 for unofficial communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Daniel Pihulic
Primary Examiner
Art Unit 3662